



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, JUNE 23, 2022

6:00 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Mark Torpey, Chair, called the meeting to order at 6:00 P.M.

SALUTE TO THE FLAG:

PRESENT VIA ZOOM: Mark Torpey, Chair;

PRESENT: Todd Fabozzi; Jason Doty; Ruth Horton; Kerry Mayo; Mark Pingel;
Bill McTygue, Alternate

ABSENT: Chuck Marshall

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Leah Everhart, Counsel to the Land Use Boards – arrived at 6:30 P.M.

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

A. APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the end of the meeting.

B. POSSIBLE CONSENT AGENDA ITEMS:

NOTE: The intent of a consent agenda is to identify any application that appear to be “approvable” without need for further evaluation or discussion. If anyone wished to further discuss any proposed consent agenda item, then that item would be pulled from the “consent agenda” and dealt with individually.

NONE AT THIS TIME.

C. APPLICATIONS UNDER CONSIDERATION:

1. **#20210564 WEIBEL PLAZA PUD ZONING AMENDMENT**, Weibel Avenue, Consideration of Advisory Opinion to the City Council for a text amendment to the Weibel Plaza PUD.

Mark Torpey, Chair, noted this has been before the Board previously. A draft was compiled with information Chuck Marshall provided as well as additional information provided at the Planning Board Workshop. This was discussed at the workshop and edits to that initial draft were made.

Mark Torpey, Chair, reviewed the draft with the changes. Zone B is a unique parcel and place in this city. Bounded by Department of Transportation land, the City Solar Panel array and the Northway on one side. Carving out a parcel requires an exception be considered due to the uniqueness of the parcel.

Mark Torpey, Chair, noted the Board recommends the following:

- Support amending Section III of the PUD to reflect the seven updated tax map parcels subject to the PUD area.
- Support amending Section VI of the PUD entitled “Uses and Characteristics” to strike limitation of maximum commercial space in Zone B of the PUD described as “office space, and hotel” to reflect a general maximum square footage limitation on all proposed commercial space.
- Support amending Section XI of the PUD entitled Expirations such that the “Planned Unit Development zoning approval shall expire if final PUD site plan approval for the first building in Zone B is not granted on or before July 1, 2035”.
- Continue to find the addition of the new use – “Warehouses, Distribution Plants and Wholesale Establishments” Inconsistent with the Community Mixed use (CMU) designation in the Comprehensive Plan.

Mark Torpey, Chair, questioned if the Board had any further comments regarding the above noted amendments.

Mark Pingel noted the Board agreed with the amendments as noted by the Chair.

Mark Torpey, Chair, continued:

- Support the addition of the new use – “Marijuana Dispensary” and “Marijuana Growing/Processing”, but as a use permitted with issuance of a Special Use Permit and Site Plan Review in Zone B only. The uses would also be subject to all NYS regulations and any standards within the UDO pertaining to use.

Mark Torpey, Chair, stated with the added review of the Special Use Permit even though the growing and processing component was not articulated definitively in the UDO just dispensary was, there is additional control the Board would have to assure the projects were appropriate.

Mark Torpey, Chair, stated those were the formal items and we have discussed additionally that the City Council has the authority to make any additional changes to the text of the PUD. The Planning Board provides the additional suggested Amendments.

- 1). Any development or redevelopment in Zone A would be subject to design standards in T-5.
- 2). Future projects in Zones and B to provide pedestrian accommodations per Saratoga Greenbelt Trail, Saratoga-Wilton connector during site plan review.

Mark Torpey, Chair, asked if there were any further questions or comments from the Board.

Jason Doty stated he is comfortable and in favor of the Advisory Opinion to the City Council.

Ruth Horton made a motion in the matter of the Weibel Plaza PUD Zoning Amendment, Weibel Avenue, Advisory Opinion to the City Council be approved with recommendations as stated by the Chair. Jason Doty seconded the motion.

Mark Torpey, Chair, asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chair, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Kerry Mayo, in favor; Mark Pingel, in favor; Bill McTygue, Alternate, in favor

MOTION PASSES: 7-0

2. **#20220502 ADVISORY OPINION TO THE CITY COUNCIL-UDO AMENDMENTS**, Consideration Of an Advisory Opinion to the City Council for proposed amendments to the Unified Development Ordinance.

Mark Torpey, Chair, stated we were provided a draft on the four proposed amendments to the Unified Development Ordinance (UDO). The Chair noted a draft was circulated to each Board Member which outlines each amendment. The draft does focus and reiterates the points that the Planning Board had previously commented on in an Advisory Opinion on the UDO in a broader sense. So, we brought forward many of the points noted in the earlier Advisory Opinion and showed where they were relevant to the various amendments being considered at the moment. The Chair noted he additionally added the Planning Board recommends that the City Attorney review each proposed amendment from a legal perspective to determine if there are any unforeseen procedural/enforcement concerns.

Mark Torpey, Chair, stated the impression he interpreted from the Board at the workshop that the proposed amendments would be consistent with the Comprehensive Plan and not contrary with the Zoning Ordinance. The Chair questioned if the Board would like to walk through each Amendment? Does the language need to be modified? Any further concerns by the Board.

Todd Fabozzi stated he reviewed the Advisory Opinion Letter and felt it was just as discussed.

Kerry Mayo stated it is just as reviewed and discussed at the workshop.

Mark Pingel questioned if there is the opportunity for the Board to continue to modify the UDO with lessons learned. Is that is built into the UDO process?

Mark Torpey, Chair, stated that was one of the original recommendations that it really should be considered a living document, and through these amendments provide comments to the City Council regarding the UDO annually.

Mark Pingel made a motion in the matter of the Advisory Opinion to the City Council – UDO Amendments – the Planning Board moves to approve the Advisory Opinion as noted by the Chair. Kerry Mayo seconded the motion.

Mark Torpey, Chair, asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chair, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Kerry Mayo, in favor; Mark Pingel, in favor; Bill McTygue, Alternate, in favor

MOTION PASSES: 7-0

3. **#20220152 EXCELSIOR AVENUE, SUBDIVISION,** Excelsior Avenue final plat review of a four-lot Subdivision in the Transect-5 (T-5) District.
4. **#20200735 EXCELSIOR AVENUE APARTMENTS,** Excelsior Avenue, Site Plan Review of a proposed Workforce housing project and associate site work in the Transect-5 (T-5) District.

Mark Torpey, Chair, stated the applicant is before the Board for final plat review of a four-lot subdivision as well as Site Plan Review. The four lots as seen on the drawings are lots 5, 6, 7 and 8. The project has been before the Board previously but has been revised. We now have a project proposing 52 workforce units. Originally 10 townhomes were proposed along with a 5,200 sq. ft. day care center and playground which have been eliminated. The commercial component of the project is now split between 600 sq. ft. of office and 1850 sq. ft. of community room. The applicant will provide a presentation on the newly proposed project. Following the presentation, we will open the public hearing as required. The Board will then proceed with the subdivision and site plan review.

Applicant: Beacon Communities, LLC;

Agent: Jessica Sheldon, Senior Development Specialist; Beacon Communities;

Ms. Sheldon stated this project is being proposed by Beacon Communities the Developer; Beardsley-Architect & Engineer of Record; The LA Group, Civil Engineer, and Landscape Architect; and partnership with Wellspring Supportive Services Provider.

Ms. Sheldon provided a background of the Beacon Communities for the Board. A visual of sample of Beacon Projects was provided as well. Ms. Sheldon provided a project summary noting 52 apartments for working families. A mix of 1-, 2- and 3-bedroom apartments are proposed. 21 one-bedroom units, 21 two-bedroom units and 10 three-bedroom apartments. Rents will be set by the state. A visual of the proposed units and rents associated with those apartments were provided along with an approximate income range for each unit. Ms. Sheldon reviewed the development background noting SEQRA was completed in 2021 for Excelsior Park. This included a third-party review of traffic impacts and mitigation needs. The Planning Board approved the Special Use Permit for Excelsior Park in 2021. This allowed for the construction of an additional 179 residential units. This represents about 15% of all planned housing units at Excelsior Park. The project appeared and received approval for this development by the DRC in August of 2021.

Mr. Heller stated the project has gone through and received a Special Use Permit in 2021 and SEQRA review. As part of the Special Use Permit there was a master plan which was compiled to show what this entire build out could be and the connectivity through the development. A review of this master plan was provided. The Special Use Permit allowed for 179 residential units, 147,600 sq. ft. non-residential uses and a 60-room hotel. Mr. Heller reviewed a visual of the subdivision plan noting the project subdivision approval has expired. Due to the comments of the neighbors the project has been scaled back. The project revisions include a reduction in the number of units from 59 to 52. With that reduction we no longer require satellite parking, and parking which will be required, and it has been reduced to 84 spaces. A visual comparison was provided showing the previous plan versus the newly revised plan. The building footprint has not changed it remains 4 stories in height. Along the back of the building there is rear under the building parking. With the removal of the townhomes, we are providing sidewalks, street trees, streetlights, and a playground. Increased grading and landscaping were provided.

Mark Torpey, Chair, questioned what is proposed for lot #8 as it appears on the Master Plan.

Mr. Heller stated there is a potential for a commercial building on lot #8.

Ms. Sheldon provided information to the Board regarding the green initiatives associated with the project. They are proposing an all-electric building, EPA energy star certified – all Energy Star appliances, low flow water fixtures, programmable thermostats, high performance insulation. We will follow the NSERDA New Construction program for the Housing – 30% more efficient than code,

Mr. Heller stated not much has changed architecturally, it did receive DRC approval in 2021. The front remains unchanged. The only change is the removal of the daycare and insertion of apartments.

Todd Fabozzi questioned why the fence like structures are which seem to be more for a daycare why they would now remain. Why is the fencing still in place?

Mr. Heller stated it was left to create a larger gathering space on the front of the building.

Todd Fabozzi questioned if they will be using heat pumps.

Ms. Sheldon stated they are proposing the use of heat pumps.

Mr. Heller provided an architectural rendering in the rear, showing the underneath parking similar to what is seen at the Hamlet.

Mark Torpey, Chair, asked if the applicant will need to return before the DRC.

Mr. Heller stated per the architect each building was reviewed individually by the DRC.

Amanda Tucker, Senior Planner, stated she will verify with the DRC if any further review is required.

Todd Fabozzi questioned if there is any further treatment proposed for the crosswalk to the park other than the indication that there is a crosswalk. Perhaps something to further denote a crosswalk.

Mr. Heller stated that can be considered and will be presented to the applicant.

Ruth Horton asked for the applicant's agent to provide information on the flow of traffic in the proposed project.

Mr. Heller provided a visual of the traffic flow for the Boards review.

Mark Torpey, Chair, questioned the rationale for Beacons number of parking spaces versus what is proposed.

Mr. Heller stated the city's requirement is 80 spaces, Beacon has noted the number of parking spaces they feel is adequate along with concerns by the neighbors regarding parking concerns.

Todd Fabozzi stated this was a part of master plan from 20 years ago with certain thresholds noted. Once those thresholds were met than certain mitigation measures need to be put in place. This project will trip those thresholds. What does the applicant have planned for mitigation measures?

Dave Carr, LA Group stated this is a part of new Special Use Permit. The original Special Use Permit sat idle for some time. It has taken about 3½ years to arrive at this plan. Greenman Peterson were the traffic engineers for the project. The city also had Chazen review the traffic as well. This was part of the SEQRA process which took place during the 3½ year process. Following Greenman Petersons traffic study submission a meeting was held with city staff, members of the public works, public safety, and the Planning Staff to determine what deficiencies and what additional analysis they wanted to see. An additional study was submitted in October 2020 and was signed off by Chazen in December 2020. There was significant review of traffic. This project is the first phase of multiphase finishing of this neighborhood. As part of this project this developer is responsible for offsite traffic mitigation which is the lengthening of the west bound turn lane of Route 50 into Veteran's Way and a right-hand turn lane from Veteran's Way onto Route 50. The next developer will be responsible for a traffic light at the corner of Marion and Excelsior. Mitigation for the traffic is triggered by these two developments. These mitigations must be in place prior to the issuance of a CO.

Todd Fabozzi spoke about the traffic issues, traffic studies and mitigation measures which are put in place for the development of this area, and what the Planning Board has reviewed as this project moves forward through the review process.

Mark Pingel stated we know what the buildings are going to be versus this is a conceptual drawing versus what they could be. How close is the conceptual to what will be built?

Mr. Carr stated he feels it is very close. He knows the developer is already in the planning stage for the apartment building.

Mark Pingel questioned how much land will be reserved? Will it be basically the remnants of Lot#5.

Mr. Carr stated that is all preserved lands. There is a trail and there could be a little development by the road. The remainder will be undeveloped.

Mr. McTygue stated he served on the Planning Board in 2002 when the concept was originally created. Today I requested background information and meeting minutes from those meetings. His concern is the long period of time which has lapsed since the original buildings were constructed and the project was dormant. His concern is what the

Board is considering today as opposed to the original concept and what was agreed upon at that time. Twenty years ago, we reviewed the entire project. Today we are reviewing this in pieces. He wants to review the density plans as well as the decisions which were made which created the road system. At the workshop, he questioned if the Planning Board did something wrong which is creating the problems which the Board is reviewing today. He was told by the City Planner that we did not get it wrong. He is not sure that the one-way street entering the project fits today's vision of where we are headed out there and will it contribute to issues in the future development of the site. The density has changed. Will we make this worse with these subdivisions? I want to see what was proposed and approved originally and where do we stand today with these numbers. We will regret heading down this path.

Kerry Mayo stated he does not feel we need to go back 20 years. We reviewed this project and the proposed changes during the SEQRA review last year. We analyzed the entire project and reviewed the densities at that time.

Bill McTygue, Alternate, stated the Planning Board 20 years ago set parameters which were approved back then. Those parameters have changed significantly.

Kerry Mayo stated that is what triggered the new SEQRA review, analysis, including traffic.

Bill McTygue, Alternate, stated it is incumbent upon the Planning Board and Staff to review what is being proposed for this site against what was proposed originally for the site and what was envisioned.

Jason Doty stated when the Board reviewed SEQRA because the Special Use Permit was 20 years old, we brought in experts to speak to traffic, impact, mitigation, traffic counts. It wasn't a Planning Board decision it was a Planning Board decision based on expert opinions based on a decision made 20 years ago. We took a long comprehensive review of this. He understands Bill's point but takes exception with how it was raised.

Mark Torpey, Chair, stated Bill was asking for the numbers and there was analysis performed and is imbedded in the Notice of Decision that the Board made with the Special Use Permit. Compared to what was originally approved in 2002 There was a net increase from 130,000 sq. ft. of commercial nonresidential to 223,600 sq. ft. of commercial space. An increase of 93,600 sq. ft. So, you had an increase in residential 230 units and 339 residential an increase of 109 and hotel increase of 40 rooms from 120 to 160. Those increases were significant and had to do with how Saratoga has changed over the last 20 years. People renting, looking for smaller apartments. There were issues which prompted a different review to change the project. All the traffic analysis which was done was reflective of the larger numbers. We did not use the same data.

Todd Fabozzi stated during the 20 years since the projects inception the city went through a Comprehensive Plan. The city went through zoning revisions that were in accord with the Comprehensive Plan. This was not a PUD locked in place. The idea that this was going to have a master plan and built all at once was never part of what this was going to be. How this works in any city, you create a legal framework based on planning, the zoning that is in place and the market either responds or doesn't respond. This is not a project where one developer is building the entire thing. It is being sold off just like any other neighborhood in the city would be built. So, for example if this is a road that is deficient, which is a city owned road then the city has a responsibility not the Planning Board no more than if the Planning Board has the responsibility to fix Broadway if we feel that the truck traffic is too heavy. There is a responsibility by this Board to analyze this within the code. This Board does consult with other departments throughout the city and as long as he has been on the Board with every project. DPW adds comments, DPS, Traffic Fire and Police. We have this as part of our record. We listen to the experts on these issues and not the scuttlebutt. We have the responsibility to listen to the experts, not the innuendo.

Mark Pingel stated the Board is now having a discussion. Following our discussion, we will open the floor for a public hearing where the public will have an opportunity to speak.

Todd Fabozzi stated we have departments in the city which have responsibilities over certain areas in which the Planning Board evaluates. They are the experts; they respond to the issues where they have concerns. Then we must act appropriately. This is true of all departments in the city. That is the point I was attempting to make. We listen to everyone, but their points make the most impact since that is their job.

Bill McTygue, Alternate stated these are Planning issues and he would like to hear comments from city offices. The silence leaves us with our best intuition and planning and engineers to make the best decisions. He referred to the original intent of this project. The Comprehensive Plan did not change the vision for what was proposed here. That was not addressed in the Comprehensive Plan. He is concerned about the roadway pattern and the density being created. The city cannot justify going in there and widening the one-way street during a development project will not fly. We will be stuck with that roadway until we reach the threshold and then the developers will need to reconfigure that roadway into that project.

Mark Pingel stated what you are stating is going back to those original documents. If that is something you wish to do and the staff is willing to provide it, we do not have that data now. What we do have is the analysis as pointed out by the Board members completed in 2021. This analysis has made significant reference to 2018 when an analysis was done. If you wish to go back and review that information to provide additional information and insight to the Board then that is something, you should do. Unless there is more data to review as this point in time then we should go forward.

Bill McTygue, Alternate stated we also went through two years of a pandemic which put a lid on the planning process as far as being open and transparent process. These changes you are suggesting happened with meeting on zoom and we did not have an open and transparent process. Changes were made and how does that impact the initial design concept that created the footprint. How does that change what was originally proposed as a park like setting? Before we go any further and before we make things any worse out there, because there are problems. There are certain council members who have expressed concerns.

Kerry Mayo questioned where are their comments?

Bill McTygue, Alternate, stated perhaps they have not arrived yet.

Kerry Mayo questioned why we are talking about this on the day of a meeting. You are asking for all this information. We discussed this last Thursday, and you didn't ask for this information from 20 years ago.

Bill McTygue, Alternate, stated I have worked for city government for many years, and you have a room full of people here. This is not a sign of success. We have a group of people from a neighborhood present and the Board would do well to listen to them.

Ruth Horton stated she feels it is a sign of success. People are interested and we are open to the conversation. That is the way it should be.

Todd Fabozzi stated to Bill that he has made some accusations here that he takes exception to. The idea that this was not a transparent process at a time when this Board has dedicated themselves as volunteers for years and years and hours and hours on zoom meetings and you making that innuendo. You should back that up with facts or take that comment back. You are accusing this Board of a non-transparent process.

Kerry Mayo stated it is right on the website you can watch it. Watch the meeting.

Bill McTygue, Alternate stated the formation of this project over the years has changed significantly.

Jason Doty stated that was not the comment. The comment was you did not feel that this was done transparently and open to the public. You stated it wasn't transparent and you stated it wasn't open to the public and that was incorrect. That is the exception I take with that comment.

Bill McTygue, Alternate stated they did not have the opportunity to come in here and make a comment.

Jason Doty stated they absolutely did; we have heard comments from residents in this area both in writing and via zoom meetings. The evidence is on the city website.

Mark Pingel questioned the Chair, stated given this energetic exchange perhaps it is time to take a small recess and then open the public hearing.

Mark Torpey, Chair stated he agrees a short recess is in order. He will open the public hearing as is required for a subdivision and we will take comments from the public following that recess.

PUBLIC HEARING:

Mark Torpey, Chair opened the public hearing at 7:20 P.M.

Alicia Legland, Attorney for Beacon properties stated she wants to make this clear. Special Use Permit was granted. An extensive review was done. Traffic impacts were redone and extensively reviewed repeatedly. The Special Use Permit is granting approval conceptually for the project. When you get to the Site Plan and Subdivision approvals This is fine tuning. We are talking about parking spaces and number of units. We are not talking about no we do not want this project. The concept is there. Environmental impacts have been extensively reviewed. The Board has issued Amended SEQRA findings, because the Board went back and did their diligence to assure that from the beginning in 2002 until it was applied for again years later, that it was still ok. The Board approved it again. The law in NY is very clear on this point, if a local zoning board, town board, planning board issues a SEQRA finding and then needs to consider issue an approval post SEQRA findings without more rationale is not a reason for changing those findings.

7:23 P.M. The Board recessed.

7:30 P.M. The Board reconvened.

Mark Torpey, Chair, stated what is before the Board is a 4-lot subdivision, and a site plan discussion for a specific project. What is not on the agenda this evening, is the Special Use Permit for the entire Excelsior Park Project. We have gone through that and have spoken to all the experts. We had the City Engineer, an Independent Engineer, Fire Department, Code Enforcement, DPS, DPW, Police Department and Traffic. Based on all that data there was nothing raised above the traffic mitigation activities which was delineated, there was nothing raised that presented an issue. We have done a thorough analysis and focus the comments on the issues before the Board this evening.

PUBLIC COMMENT:

Carl Porter lives at 30 Whistler Court. Mr. Porter spoke regarding proper notification of residential homeowners. Some homeowners were notified of the Beacon project some were not. The Special Use Permit which was amended on May 13, 2021. The Excelsior Park homeowners were never notified. We were never notified of an increase in density. We foiled the city for notification of the Master Plan. No response. City Council members came and viewed the site and could not believe what was proposed for this area. Excelsior Park was proposed for 200 residential units, either townhomes or condos. No apartment buildings were proposed. Mr. Witt built Whistler Court, then sold off parcels to Burns Management. Burns Management constructed 3 apartment buildings 108 units. Burns Management has an option to construct another apartment building with an additional 30 units. The original developer is over the 200 units proposed and in violation of the original Special Use Permit which allowed for 200 dwelling units, if 15% are reserved for affordable housing the total will increase to 230 dwelling units. These affordable housing units shall be intermingled throughout the development rather than in one building. We are angry because during the pandemic the Planning Board increased the density from 200 to 339 units. We are so far away from what was promised to the residential homeowners by the city, by the developer, and by the Planning Board. There are significant problems with traffic and parking now. We are

concerned regarding public safety and the ability to enter and exit our residences. Our hope is to have this project put on hold, the density rolled back, and the traffic issues addressed.

Mark Richardson has lived on Whistler Court for 16 years. He spoke about the numbers 179 residential units and 147,600 nonresidential units. That is what was approved back in 2002. The total number is 223,600 sq. ft. of commercial space from 130,000 sq. ft. originally proposed. The residential goes from 230 with the workforce housing to 339. There is nothing commercial in this space currently only the hotel. You will need the satellite parking even without the 10 townhomes. There is a one lane in and one lane out. There is no call for mitigation of that corner. There is mitigation proposed on Route 50 and Veteran's Way and a traffic light on Marion Avenue. Problems are happening today. What will happen with the next project built out. There has been no change to the infrastructure. Why haven't there been any changes. We take exception to the fact that you have spoken to professionals but not the people who currently live here and experience these problems daily. I was an original owner and member of the Excelsior Park Community Association. In 2015 we gave in to Mr. Witt regarding the apartments. Why aren't they a member of our association. Mr. Witt never conveyed those parcels to the Excelsior Park Community Association. He sells off 3 parcels and now there are 133 units. He only has 100 units for the remainder of the entire project. He claims hardship and is allowed more density. There is an opportunity for this Board to fix this before it goes too far down the road.

Carol Corn 30 Whistler Court. The parking is an issue, especially in the winter. We lose half our parking spaces to the snow. Are these proposed parking spaces free parking spaces or paid parking spaces. If there is parking on the road Excelsior Avenue becomes a one-way street.

Diane Czechowicz 30 Whistler Court. She spoke regarding the new building proposed by Burns Management. All the corners and intersections narrow. These people have underground parking available but will park on the street to avoid paying for parking. There is no parking now. We have spoken with traffic safety to no avail. Fire safety is an issue as well as there is no public transportation into the site.

Julie Pellitier 5 Gibson Court. Photographs were provided to the Board about the winter parking available and photographs noting the lack of plowing which does not allow for safe passage of emergency vehicles. Who is responsible for plowing is it a private firm, and what are the plans for snowplowing and snow removal? Is the playground just for the tenants/residents. Will it have specific hours and monitored by whom?

Bill Hertzell 30 Whistler Court. When you speak about a unit you could conceivably have 2 drivers in that family and the number of cars would increase dramatically. Another issue is the school bus maneuverability for the site. Fire Safety is a huge issue since it is near impossible to get these vehicles into the site.

Joe Ferrante 12 Whistler Court, spoke about vehicles in the site doing construction work blocking the roadway. All emergency services could be impacted by the inability to access the site. Workforce housing was to be intermingled throughout the site. This is not intermingled. Also, is there any guarantee that if the economy slows will we wait another 20 years and what will be proposed at that time.

Tom Hallie 5 Gibson Court. There are 52 apartment units and 20% of those are for Wellspring Clients. It is a very noble cause. Is there any added security for these people in these apartment units? Parking in fall, winter and spring there are buses parked there. The hotel manager also had concern regarding Wellspring Clients and their safety in these apartments.

Ray Seefeld 3 Gibson Court. President of Excelsior Park Homeowners Association. He appreciates the Board doing their due diligence. In 2002 when the developer requested 270 units it was denied due to it being too much for the infrastructure in this area. He was granted 200 but a 15% additional density bonus for subsidized housing. Twenty years later nothing has changed with the infrastructure, and we are going from 200 units to 339 units. That is a 70% increase with no change in the infrastructure. What is next on the horizon. Would you want a 70% increase in density in your neighborhood? Parking is a huge issue.

Mark Pingel asked if there were any further comments from the public. None heard. Mark Pingel spoke on behalf of the Board and thanked the members of the public for their comments. You have presented interesting information. We will take follow up questions from members of the audience.

Leah Everhart, Counsel to the Land Use Boards noted the Board is providing public comment again to seek clarification on factual issues and not a back and forth on opinions.

Mark Pingel stated we are not going to debate.

A member of the audience stated they thought Wellspring was not a part of the application any longer until tonight. She has worked with that population and domestic violence students. The perpetrators make it difficult. She is frightened we are locked in at a dead end and must go by this building to get out. Saratoga has 35 safe houses. I don't know where they are and don't want to know. Everybody is going to know where these safe houses are, and everyone is in jeopardy. There is no access to the grocery stores. Traffic is a nightmare.

Mark Richardson, Whistler Court requested clarification from the applicant on the Wellspring situation. Where are the Wellspring units located?

Carl Porter questioned if Beacon Properties has a contract with Wellspring or is this just conceptual.

Ms. Sheldon stated yes, there is a contract with Wellspring.

Carl Porter, Whistler Court questioned why the Excelsior Park Community never informed regarding the changes in the Special Use Permit and the removal of the intermingling of the workforce housing community. We could have presented our opinions.

Joe Ferrante, 12 Whistler Court. Excelsior Park HOA. There is a hotel for long term stays, next to a highway, you have a park and a trail that is not lit. Women who are abused and men who are looking for them. Is the safest place you could find? Also, without emergency access and one way in and out – extremely dangerous for these women and everyone else.

Ruth Horton asked Beacon Communities to explain their association with Wellspring.

Leah Everhart, Counsel to the Land Use Boards asked if the Planning Board is seeking to obtain additional information from the applicant, then the public hearing should remain open. If the Board believes it has all the information needed, then the public hearing can be closed. Before the Board can take any action, the public hearing must be closed.

Todd Fabozzi noted information is provided to the Board by city departments for each application routinely before the Boards review.

Ruth Horton noted that if the Board receives comments and concerns in an application this does not preclude the Board from requesting additional information from that city department for further clarification.

Amanda Tucker, Senior Planner, stated there are two components that we are looking at tonight. One is the subdivision, and one is the site plan. The subdivision is what is triggering the public hearing. If the Board is not asking for any additional information on the subdivision, the public hearing could be closed. The Site Plan does not require a public hearing, but the Board can take public comment until you are prepared to decide.

Bill McTygue, Alternate, stated lack of comment from city staff to him is a problem. He has listened to complaints from the public involving statements coming from city staff and employees, we are not getting the same level of input which is disconcerting. He would like to make a request of the City Planner to ask primary departments, DPS, DPW, if

there is an issue or problem exists that we not receiving a good level of input from the city staff. That seems to be a reasonable request.

Amanda Tucker, Senior Planner, stated she is filling in tonight. She is familiar with the project and noted the subdivision and site plan information has been distributed to all city departments including the city's designated engineer. They have most recently been redistributed with all the recent updates. The Board has received over the last few days the most recent comments for the most recent plans.

Mark Pingel stated we are going to end the public comments and continue with Board discussion. What we have heard tonight is not consistent with the input we have gotten from different sources. There are specific questions we should ask based on the information we have received this evening. He suggested we compile those questions and forward them to the respective departments.

Kerry Mayo stated the issue regarding emergency access was something we asked about last May or June. Over the past year they have had time to address this issue.

Mark Torpey, Chair, stated there was some discussion about density. The zoning laws that are in effect in the Excelsior Park Area, T-5 District there are no density levels on the residential side specified. The T-5 District is really intended to be a very different configuration than everywhere else. There is no guideline for the Planning Board. The Chair addressed the comment regarding looking at the Master Plan that no apartment buildings were part of the plan. The Comment was that it will present itself as a true parklike setting. The Planning Board has no ability to articulate a preference for a condominium or an apartment or townhouse ownership. We have no jurisdiction over that. Regarding the intermingling of the workforce housing, it is upsetting that over the years we have not gotten to a position in the city where that affordable housing component is truly intermingled or sprinkled around the city. He does not see this as a violation of the Special Use Permit. There is still an opportunity for additional workforce housing in this development.

Todd Fabozzi stated the developer seems to be attempting to intermingle within the building with the different size apartments offered and the price point per apartment.

Mark Torpey, Chair, stated it was noted that the rent would not be more than 30% of the total household income for the renters.

Ms. Sheldon, Beacon Communities stated the income levels they are targeting range from a low of 30% of the area median income is about a \$100,000 for a family of four.

Bill McTygue, Alternate stated we can argue amongst ourselves over the past thinking on this project back to 2002. He feels we should speak with the attorneys about the questions raised this evening. The original concept described in the legal document shown this evening which outlined the parameters of Excelsior Park and the rules set forth in that Special Use Permit. What happened to that rule? Did it get aside over time? Does that hold any legal foundation over what is currently happening there now?

Mark Pingel stated he would like to know what the zoning was in this area in 2002. If the zoning was still T-5, it would help him understand.

Bill McTygue, Alternate, questioned if there was a zoning change that these people were not aware of.

Todd Fabozzi stated as he stated earlier, the City had a Comprehensive Plan Process and a Zoning Process that corresponded to that and that is the legal framework in which we operate. So, whatever the original concept was is not the operating procedure for us. It is the zoning code in place which has been in place and that is what our primary role as a Board is. We take that code and follow it and not the original concepts itself.

Kerry Mayo provided additional information in conjunction with Todd's comments regarding the proposed new UDO which will go into effect in July. We interpret the proposals based on the Comprehensive Plan, the Zoning Code and the new UDO as to what can be constructed in an area taking these guidelines into account.

Leah Everhart, Counsel to the Land Use Board responded to Bill's comment regarding conditions to an original Special Use Permit. The big issue is what is the context in which we make our decisions. What has been discussed tonight, the Comp Plan, all your planning documents adopted by the City Council ultimately lead to your zoning laws. Those are the context. If you are asking specifically about where we fit chronologically. What was the law at the time this was looked at in 2002, what was the zoning law, and the Comp Plan provisions applicable at that time? What has changed since that time? We can work with the Planning staff and provide you with a full and complete discussion about all of this. We cannot do this tonight. There was an original Special Use Permit issued possibly with conditions. Then there was an entire process to amend it. You are now asking aren't the first conditions in place. The answer is no, not if you amend them. You have the right to amend previous approval when a new application is made. When an approval is made it is not a law. It is an approval which can be amended.

Discussion ensued regarding the project, what was presented and allowed in the past, what is now proposed and in the future.

Bill McTygue, Alternate, continued to question the Planning Board acted on an application 20 years ago. The rules were set forth outlining the project, the entire footprint. Don't those rules hold over the years. Can they just change midstream?

Leah Everhart, Counsel to the Land Use Boards stated your approval with conditions were issued in 2002 and do hold water right up until this Board amends them. So, right now, what is in place is the approval issued in 2021. That is what is before you. Ms. Everhart brought the Board back to what is before them tonight. After a Board has heard comments from the public, the Board will then interact with the applicant and provide them an opportunity to respond or clarify comments made.

Ruth Horton stated she had two questions, one was the clarification on the Wellspring relationship and the other a question on the playground and if it is available to the community.

Ms. Sheldon stated they are before the Board this evening for subdivision approval and site plan. There are issues which are beyond the scope of Beacon. We are setting aside 10 units for Wellspring. We are partnering with them. We will contract with a third party to provide snow plowing to the site and provide information on snow storage. There is a full-time management and maintenance on site to manage day to day issues. The playground area will be gated and open to the public with hours set and posted. Parking will be free to residents.

Todd Fabozzi questioned the parking situation. There is what the code requires and what you are proposing. Then there is the information provided by the experienced people who live here. At the workshop I asked if the applicant would consider keeping the original overflow parking area for the residents as well as guests. Is that something you might consider.

Mr. Heller stated Beacon is only building the parking they feel they need now which is 63. They are providing 84 parking spaces.

Todd Fabozzi stated between the onsite parking and additional off-street parking which is not there now you are meeting your requirement.

Ruth Horton stated the city has requirements and that is the requirement which we need to meet.

Mr. Heller stated the city does allow for parallel parking along the frontage which is where the city requirements plus what Beacon is providing to meet the code requirements.

Mark Torpey, Chair, stated based on the discussions and the comments from the public there were no concerns noted regarding the subdivision. We can move forward with this portion of the application. Site Plan issues could use further refinement. We can close the public hearing, vote on the subdivision and hold off on Site Plan reserving additional public comment. In the interim we will request specifically that DPW and the Fire Department put their responses to the neighbors in writing. It is not fair to hold the applicant up. We have received no indication from any city department noting a problem with the one way in and one way out. We have only heard comments and concerns voiced by the homeowners and residents.

Bill McTygue, Alternate, stated he believes we should wait to vote on approvals until the Board receives information back from legal regarding where we stand here and going forward.

Jason Doty stated we stand on the amended Special Use Permit approved in 2021 when we deal with subdivision approval.

Leah Everhart, Counsel to the Land Use Boards stated she has not seen the original Special Use Permit from 2002 nor has she seen the amended Special Use Permit approved in 2021? She is unsure if the latter one totally eclipses the original or not. In general, when you have an amendment, it is the amendment that is legally effective.

It was the consensus of the Board to move forward with the subdivision review and hold off on the Site Plan to a subsequent meeting.

Bill McTygue, Alternate, commented to the applicant. His comments tonight in no way reflect on the credibility of the applicant or the project. He is going back in history, and he wants a full explanation of what has happened over the last 20 years. That has nothing to do with the goodwill or the project presented tonight. He requested the Board to delay voting for one meeting until further information can be provided.

Jason Doty stated the public hearing is closed for discussion on the subdivision. Public comments will be allowed at the discretion of the Board for Site Plan.

Mark Torpey, Chair, did note the improvements that the applicant is making in lengthening of the west bound turn lane of Route 50 into Veteran's Way and a right-hand turn lane from Veteran's Way onto Route 50, as well as optimization on signal timing. In addition, the applicant is providing affordable housing, a lead certified net zero carbon building. He is comfortable voting on subdivision.

Mark Pingel stated he would like to work with Diane to compile a list of public comment to a set of issues and concerns we can send to the city departments. I will then circulate it to the Board. There are inconsistencies here that need to be addressed. The subdivision should go forward. He would like to appeal to everyone to separate the city issues from the development issues. Many of the issues which should be addressed, and the residents are experiencing but these are city issues, not a Beacon issue. This is an opportunity to respond to the public comments.

PUBLIC HEARING:

Mark Torpey, Chair, closed the public hearing at 9:07 P.M.

Members of the public were speaking out of order regarding the process and the public hearing.

Leah Everhart, Counsel to the Land Use Boards stated that what the Board has stated several times is the Board is closing the public hearing on the subdivision. Even though there is no requirement for the Board to have a public comment on the site plan the Board will open the floor to members of the community before the site plan is acted upon. Those members of the public who wish to comment on the site plan will have further opportunity to do so. Tonight, the Board is closing the public hearing on the subdivision. The Board may take action on the subdivision.

The Board is not moving forward on any other action this evening.

Mark Torpey, Chair, stated we will allow for public comment on the site plan when it is reviewed at a subsequent meeting following receipt of additional information from the city.

Leah Everhart, Counsel to the Land Use Board noted the Board previously reconsidered SEQRA review during the last review of the Special Use Permit. Now, the number of lots proposed at that time has been altered. Typically, that raises a concern because normally when a previously approved subdivision is being further subdivided means density is going up. Here the density is proposed to remain the same or subdividing the land differently. That is technically a change to what was previously reviewed. It would not be a significant change which would require additional SEQRA review. The Board should make a motion finding that while this is a modification of the previous SEQRA review, there are no new or different impacts likely to occur as a result.

Mark Torpey, Chair stated that is a fair statement. Subdivision will not change that.

Mark Pingel stated first the Board will close the public hearing, then make a motion reaffirming SEQRA and then vote on the subdivision.

SEQRA REAFFIRMATION:

Leah Everhart, Counsel to the Land Use Board provided the Board with the proper language needed to reaffirm the previous reviewed SEQRA action.

Jason Doty made a motion in the matter of the Excelsior Avenue subdivision, Excelsior Avenue, the subdivision constitutes a minor modification to the previously reviewed SEQRA action. There will be no new or different impacts likely to result that were not previously considered or analyzed. Therefore, no further SEQRA Review is warranted. Kerry Mayo seconded the motion.

Mark Torpey, Chair asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chair, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Kerry Mayo, in favor; Mark Pingel, in favor; Bill McTygue, Alternate, opposed

MOTION PASSES: 6-1

Mark Torpey, Chair stated we will move now to subdivision approval.

Mark Pingel made a motion in the matter of the Excelsior Avenue Final Subdivision, Excelsior Avenue That the 4-lot subdivision be approved as submitted. Ruth Horton seconded the motion.

Mark Torpey, Chair asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chair, in favor; Todd Fabozzi, in favor; Jason Doty, in favor; Ruth Horton, in favor; Kerry Mayo, in favor; Mark Pingel, in favor; Bill McTygue, Alternate, opposed

MOTION PASSES: 6-1

Discussion ensued among the Board regarding legal counsel researching the Special Use Permit from 2002 and now, and what was requested by Board Alternate Bill McTygue.

Mark Torpey, Chair, stated having legal background information could be helpful. He would like to obtain additional information prior to having Counsel move forward on this. Planning Staff and the Chair will meet and discuss what would be helpful. Any further request for information by the Board should be forwarded to staff to be included in the additional information.

Bill McTygue, Alternate stated he would like to have some legal research completed on what the rules were and how they were changed, and the booklet that was referenced by the public this evening in this regard.

Leah Everhart, Counsel to the Land Use Board stated it is her understanding that the booklet is a private document that was generated by a homeowner's association that is provided when someone is under contract to purchase. The Special Use Permit was included in that document. The entirety of that documents is a HOA document. Chronically what occurred is the Board approved a project, you likely required that it be placed in the offering plan so that new purchasers were aware of the potential for possible future development. Chronologically people who purchased the property at that time it was in there. That is not the document she is concerned about, nor the document the Board is concerned about. What you are concerned about is our Special Use Permit was approved in 2002. The Special Use permit was amendment in 2021, not the offering plan.

Discussion ensued among the Board regarding what information should be requested from legal and staff. All requests for information should be in writing and submitted to the Chair. This will be discussed among the Board at the next workshop to determine the scope of what is being requested.

UPCOMING MEETINGS:

Planning Board Workshop, Thursday, July 7, 2022, at 5:00 P.M.

Planning Board Meeting, Thursday, July 14, 2022, at 6:00 P.M.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chair adjourned the meeting at 9:23 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

Meeting minutes approved July 28, 2022